

AMENDED IN SENATE MAY 21, 2009

AMENDED IN SENATE MAY 12, 2009

AMENDED IN SENATE APRIL 23, 2009

SENATE BILL

No. 400

Introduced by Senator Corbett

February 26, 2009

An act to amend Section ~~8869.82~~ of the Government Code 26003 of the *Public Resources* Code, relating to ~~bonds~~ energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 400, as amended, Corbett. ~~Bonds.~~ *Energy: California green vehicles.*

The California Alternative Energy and Advanced Transportation Financing Authority Act provides industries in the state with alternative methods of financing in providing and promoting the establishment of facilities needed for the development and commercialization of advanced transportation technologies, and other facilities. The act defines "advanced transportation technologies" to include, among other things, electric vehicles and ultralow emission vehicles.

This bill, instead, would define "advanced transportation technologies" to include, among other things, "California green vehicles," as defined.

~~Existing law establishes in state government the California Debt Limit Allocation Committee, with duties that include annually determining a state ceiling on the aggregate amount of private activity bonds that can be issued, and allocating that amount among state and local agencies. Existing law defines the term "state ceiling" for those purposes with regard to an amount specified in federal law.~~

~~This bill would revise the definition of “state ceiling” for these purposes to also include certain amounts reserved to the state for qualified energy conservation bonds and recovery zone economic development bonds.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 26003 of the Public Resources Code is*
2 *amended to read:*

3 26003. As used in this division, unless the context otherwise
4 requires:

5 (a) “Authority” means the California Alternative Energy and
6 Advanced Transportation Financing Authority established pursuant
7 to Section 26004, and any board, commission, department, or
8 officer succeeding to the functions of the authority, or to which
9 the powers conferred upon the authority by this division shall be
10 given.

11 (b) “Cost” as applied to a project or portion thereof financed
12 under this division means all or part of the cost of construction
13 and acquisition of all lands, structures, real or personal property
14 or an interest therein, rights, rights-of-way, franchises, easements,
15 and interests acquired or used for a project; the cost of demolishing
16 or removing any buildings or structures on land so acquired,
17 including the cost of acquiring any lands to which those buildings
18 or structures may be moved; the cost of all machinery, equipment,
19 and furnishings, financing charges, interest prior to, during, and
20 for a period after, completion of construction as determined by the
21 authority; the cost of the purchase or sale of energy derived from
22 an alternative source pursuant to subdivision (g) of Section 26011;
23 provisions for working capital; reserves for principal and interest
24 and for extensions, enlargements, additions, replacements,
25 renovations, and improvements; the cost of architectural,
26 engineering, financial, accounting, auditing and legal services,
27 plans, specifications, estimates, administrative expenses, and other
28 expenses necessary or incident to determining the feasibility of
29 constructing any project or incident to the construction, acquisition,
30 or financing of a project.

(c) (1) “Alternative sources” means the application of cogeneration technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels, and is intended primarily to offset part or all of the customer’s own electrical requirements.

(2) “Alternative sources” does not include a hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(d) “Advanced transportation technologies” means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, ~~high value-added~~ *high-value-added* jobs for Californians while enhancing the state’s commitment to energy conservation, pollution reduction, and transportation efficiency. Those technologies may include, but are not limited to, any of the following:

- (1) Intelligent vehicle highway systems.
- (2) Advanced telecommunications for transportation.
- (3) Command, control, and communications for public transit vehicles and systems.
- ~~(4) Electric vehicles and ultralow-emission vehicles.~~
- (4) *California green vehicles.*
- (5) High-speed rail and magnetic levitation passenger systems.
- (6) Fuel cells.

(e) A “California green vehicle” means a motor vehicle that meets any of the following criteria:

- (1) *Meets or exceeds California’s super ultralow emission vehicle standard of exhaust emissions and the federal inherently low-emission vehicle evaporative emission, as defined in Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations.*
- (2) *Is a plug-in hybrid motor vehicle propelled by an internal combustion engine or heat engine using a combustible fuel, an on-board rechargeable storage device, and a means of using an off-board source of electricity.*
- (3) *Meets or exceeds the California advanced technology partial zero-emission vehicle standard for criteria pollutant emissions*

1 *and that is rated at 45 miles per gallon or greater according to*
2 *the federal highway fuel economy test procedure.*

3 *(4) Is a gas-electric hybrid vehicle that has a combined fuel*
4 *economy rating of 45 miles per gallon or greater according to the*
5 *federal highway fuel economy test procedure and meets*
6 *California's ultralow emission vehicle standard for exhaust*
7 *emissions.*

8 ~~(e)~~

9 *(f) "Financial assistance" includes, but is not limited to, either,*
10 *or any combination, of the following:*

11 *(1) Loans, loan loss reserves, interest rate reductions, proceeds*
12 *of bonds issued by the authority, insurance, guarantees or other*
13 *credit enhancements or liquidity facilities, contributions of money,*
14 *property, labor, or other items of value, or any combination thereof,*
15 *as determined by, and approved by the resolution of, the board.*

16 *(2) Any other type of assistance the authority determines is*
17 *appropriate.*

18 ~~(f)~~

19 *(g) "Participating party" means either of the following:*

20 *(1) A person or an entity or group of entities engaged in business*
21 *or operations in the state, whether organized for profit or not for*
22 *profit, that does either of the following:*

23 *(A) Applies for financial assistance from the authority for the*
24 *purpose of implementing a project in a manner prescribed by the*
25 *authority.*

26 *(B) Participates in the purchase or sale of energy derived from*
27 *an alternative source pursuant to subdivision (g) of Section 26011.*

28 *(2) A public agency or nonprofit corporation that does either of*
29 *the following:*

30 *(A) Applies for financial assistance from the authority for the*
31 *purpose of implementing a project in a manner prescribed by the*
32 *authority.*

33 *(B) Participates in the purchase or sale of energy derived from*
34 *an alternative source pursuant to subdivision (g) of Section 26011.*

35 ~~(g)~~

36 *(h) "Project" means a land, building, improvement to the land*
37 *or building, rehabilitation, work, property, or structure, real or*
38 *personal, stationary or mobile, including, but not limited to,*
39 *machinery and equipment, whether or not in existence or under*
40 *construction, that utilizes, or is designed to utilize, an alternative*

1 source, or that is utilized for the design, technology transfer,
2 manufacture, production, assembly, distribution, or service of
3 advanced transportation technologies, or an arrangement for the
4 purchase, including prepayment, or sale of energy derived from
5 an alternative source pursuant to subdivision (g) of Section 26011.

6 ~~(h)~~

7 (i) “Public agency” means a federal or state agency, department,
8 board, authority, state or community college, university, or
9 commission, or a county, city and county, city, regional agency,
10 public district, school district, or other political entity.

11 ~~(i)~~

12 (j) (1) “Renewable energy” means a device or technology that
13 conserves or produces heat, processes heat, space heating, water
14 heating, steam, space cooling, refrigeration, mechanical energy,
15 electricity, or energy in any form convertible to these uses, that
16 does not expend or use conventional energy fuels, and that uses
17 any of the following electrical generation technologies:

18 (A) Biomass.

19 (B) Solar thermal.

20 (C) Photovoltaic.

21 (D) Wind.

22 (E) Geothermal.

23 (2) For purposes of this subdivision, “conventional energy fuel”
24 means any fuel derived from petroleum deposits, including, but
25 not limited to, oil, heating oil, gasoline, fuel oil, or natural gas,
26 including liquefied natural gas, or nuclear fissionable materials.

27 (3) Notwithstanding paragraph (1), for purposes of this section,
28 “renewable energy” also means ultralow-emission equipment for
29 energy generation based on thermal energy systems such as natural
30 gas turbines and fuel cells.

31 ~~(j)~~

32 (k) “Revenue” means all rents, receipts, purchase payments,
33 loan repayments, and all other income or receipts derived by the
34 authority from a project, or the sale, lease, or other disposition of
35 alternative source or advanced transportation technology facilities,
36 or the making of loans to finance alternative source or advanced
37 transportation technology facilities, and any income or revenue
38 derived from the investment of money in any fund or account of
39 the authority.

1 ~~SECTION 1. Section 8869.82 of the Government Code is~~
2 ~~amended to read:~~

3 ~~8869.82. (a) As used in this chapter, unless the context~~
4 ~~otherwise requires, the terms defined in this section shall have the~~
5 ~~following meanings:~~

6 ~~(1) “Committee” means the California Debt Limit Allocation~~
7 ~~Committee established pursuant to Section 8869.83.~~

8 ~~(2) “Fund” means the California Debt Limit Allocation~~
9 ~~Committee Fund created pursuant to Section 8869.90.~~

10 ~~(3) “Internal Revenue Code” means the Internal Revenue Code~~
11 ~~of 1986, as amended from time to time (26 U.S.C. Sec. 1 et seq.).~~

12 ~~(4) “Issuer” means any local agency or state agency authorized~~
13 ~~by the Constitution or laws of the state to issue private activity~~
14 ~~bonds.~~

15 ~~(5) “Local agency” means any political subdivision of the state~~
16 ~~within the meaning of Section 103 of the Internal Revenue Code,~~
17 ~~(26 U.S.C. Sec. 103) or any entity that has the power to issue~~
18 ~~private activity bonds on behalf of that political subdivision.~~

19 ~~(6) “MBTCAC” means the California Tax Credit Allocation~~
20 ~~Committee created by Section 50199.8 of the Health and Safety~~
21 ~~Code.~~

22 ~~(7) “Private activity bond” means a part or all of any bond, or~~
23 ~~other instrument, required to obtain a portion of the state’s volume~~
24 ~~cap pursuant to Section 146 of the Internal Revenue Code (26~~
25 ~~U.S.C. Sec. 146) in order to be tax exempt, including, generally,~~
26 ~~all of the following, as those bonds are defined in the Internal~~
27 ~~Revenue Code:~~

28 ~~(A) Exempt facility bonds, except bonds for airports, docks and~~
29 ~~wharves, and certain solid waste facilities.~~

30 ~~(B) Qualified mortgage bonds.~~

31 ~~(C) Qualified small issue bonds.~~

32 ~~(D) Qualified student loan bonds.~~

33 ~~(E) Qualified redevelopment bonds.~~

34 ~~(F) The nonqualified amount of an issue of governmental bonds~~
35 ~~(including advance refunds) exceeding fifteen million dollars~~
36 ~~(\$15,000,000), as provided in Section 141(b)(5) of the Internal~~
37 ~~Revenue Code (26 U.S.C. Sec. 141(b)(5)).~~

38 ~~(8) “Private activity bond limit” means any portion of the state~~
39 ~~ceiling allocated or transferred to a state agency or local agency~~
40 ~~pursuant to this chapter.~~

1 (9) “State” means the State of California.

2 (10) “State agency” means the state and all state entities,
3 including joint powers authorities of which the state or agency or
4 instrumentality thereof is a member, empowered to issue private
5 activity bonds, the interest on which is exempt from income tax
6 under Section 103(a) of the Internal Revenue Code (26 U.S.C.
7 Sec. 103(a)), including nonprofit corporations described in Section
8 150(d) (26 U.S.C. Sec. 150(d)) of the Internal Revenue Code
9 authorized to issue qualified scholarship funding bonds.

10 (11) “State ceiling” includes both of the following:

11 (A) The amount specified by Section 146(d) of the Internal
12 Revenue Code (26 U.S.C. Sec. 146(d)) for each calendar year
13 commencing in 1986.

14 (B) The amount reserved to the state pursuant to Sections 1112
15 and 1401 of the American Recovery and Reinvestment Act of 2009
16 (26 U.S.C. Secs. 54a and 1400U-2).

17 (b) Pursuant to Section 146(e) of the Internal Revenue Code
18 (26 U.S.C. Sec. 146(e)), this chapter governs the allocation of the
19 state ceiling among the state agencies and local agencies in this
20 state having authority to issue private activity bonds.

21 (c) Any portion of the state ceiling allocated or transferred by
22 or under the authority of this chapter shall become the private
23 activity bond limit for the issuer of which that portion is allocated
24 or transferred for any private activity bonds issued by that issuer.